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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,334	04/01/2004	George J. Franks JR.	79881	7547
22242	7590	02/23/2006	EXAMINER	
FITCH EVEN TABIN AND FLANNERY 120 SOUTH LA SALLE STREET SUITE 1600 CHICAGO, IL 60603-3406			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/815,334	FRANKS, GEORGE J.
	Examiner	Art Unit
	Anita M. King	3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 01 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-50 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 April 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/17/04 & 8/23/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

This is the first office action for application number 10/815,334, Clamp, filed on April 1, 2004.

Drawings

The drawings are objected to because reference character "20c" top left in Fig. 5 appears to be referring to the wrong element. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the

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description: "114," "116," and "118," cited in paragraph 62. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "46". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one projection having a generally triangular-shaped configuration, cited in claim 15, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a transmission portion" in line 4, "a multi-part cable" in lines 4, 6, 13, 14, and 19, "a coextensive support portion" in line 5, "at least a portion of a transmission portion" bridging lines 12-13 and bridging lines 18-19, and "at least a portion of a coextensive support portion" in line 14 are intended to refer to the original recitations of the terms "at least a transmission portion", in line 1, "a multi-part cable" in line 1, "a coextensive support portion" in line 2, "at least a portion of a transmission portion" in line 4, and "at least a portion of a coextensive support portion" in line 5 of the claim, respectively. For example, the latter recitation of "a transmission portion" should be cited as either --the transmission portion-- or --said transmission portion--. Also, see claims 2-6 for the same ambiguity.

Claim 4 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "an abrasive surface" in line 2 of claim 4 is intended to refer to the original recitation of the term "an abrasive surface" in line 2 of claim 3.

There is an inconsistency between the language in the preamble and certain portions in the body of the claim, thereby making the scope of the claim unclear. The preamble in claim 1 clearly indicates that a subcombination is being claimed, e.g., "a

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clamp to support a multi-part cable having at least a transmission portion and a coextensive support portion...." This language would lead the examiner to believe that the applicant intends to claim only the subcombination of "a clamp," the cable being only functionally recited. This presents no problem as long as the body of the claim also refers to the cable functionally, such as, "for attachment to said cable."

The problem arises when the cable or parts thereof, is positively recited within the body of the claim, such as, "wherein both the first and second gripping surfaces grip at least a portion of a coextensive portion of a multi-part cable," bridging lines 1 and 2 of claim 5. There is an inconsistency within the claim; the preamble indicates subcombination, while in at least one instance in the body of the claim there is a positive recital of structure indicating that the combination of a clamp and a cable are being claimed. The examiner cannot be sure if applicant's intent is to claim merely the clamp or the clamp in combination with the cable.

Applicant is required to clarify what the claims are intended to be drawn to, i.e., either the clamp alone or the combination of the clamp and the cable. Applicant should make the language of the claim consistent with applicant's intent. In formulating a rejection on the merits, the examiner is considering that the claims are drawn to the combination and the claims will be rejected accordingly. If applicant indicates by amendment that the combination claim is the intention, the language in the preamble should be made consistent with the language in the body of the claims. If the intent is to claim the subcombination, then the body of the claims must be amended to remove

positive recitation of the combination. Also, see claims 6 and 34 for the same inconsistency.

In regards to claims 8 and 13, it is difficult to determine the metes and bounds of the claim, claim 8 is directed to a method of making gripping surfaces and claim 13 is directed to a method of making a housing, these claims do not further limit the structural limitations of the instant claimed invention and thus are not afforded any patentable weight.

Claim 23 recites the limitation "the extending portion" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 33 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a cable" in lines 3, 4, 5, 9, 12, and 14 is intended to refer to the original recitation of the term "a cable" in line 1 of the claim.

In regards to claim 45-50, it is not certain if the claims are directed to the same invention as the parent claim 33. The preamble of dependent claims must be consistent with the preamble of the parent claim, claims 45-50 are directed to "A drop wire clamp" but depend directly or indirectly from claim 33 which is directed to "A clamp".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 33, 34, 45, 46, and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,131,171 to Fotsch. Fotsch discloses a clamp for supporting a cable (14), comprising: a tapered housing (18) having a first gripping surface capable of engaging the cable and defining a longitudinal groove capable of receiving at least a portion of the cable; a tapered slide (15) engageable with the housing for pressing the cable against the first gripping surface; a shim (6) disposed between the housing and the slide having a second gripping surface capable of engaging the cable and defining a second longitudinal groove; a hanger portion (5) to mount and support the clamp; wherein the housing and the shim move relative to one another to hold at least a portion of the cable within the first longitudinal groove and the second longitudinal groove by compressive force; wherein the compressive force is exerted substantially on a non-signal-carrying portion of the cable; wherein the slide includes a third longitudinal groove; wherein the shim includes a first surface and a second surface opposite from the first surface, the first surface having the second longitudinal groove and the second surface having a bulged surface opposite the second longitudinal groove, wherein the third longitudinal groove receives the bulged surface; and wherein the hanger portion comprises a wire loop extending from the clamp.

Allowable Subject Matter

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Claims 2-32, 35-44, 47, 48, and 50 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: one of the primary reasons for the indication of allowable subject matter of the claims in this application is the limitations of a clamp to support a multi-part cable having at least a transmission portion and a coextensive support portion, having a housing defining an open interior volume and a first recess for receiving at least a portion of the transmission portion and having a first gripping surface, a slide receivable in the housing, a shim being generally disposable in the housing between the housing and the slide, the shim defining a second recess for receiving the portion of the transmission portion and having a second gripping surface, the first and second recess cooperating to provide relief such that a clamping force does not exceed a predetermined amount, and a hanger attached to the housing or the slide, included in independent claim 1 and in combination with the other elements cited in the claim, which is not found in the prior art of record.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 1,365,411 to Kearney

U.S. Patent 2,068,368 to Bouvier et al.

U.S. Patent 2,472,527 to Gordon et al.

U.S. Patent 5,121,525 to Okura

U.S. Patent 5,308,026 to Shaw

U.S. Patent 5,336,846 to Sachs

U.S. Patent 5,869,785 to Bechamps et al.

U.S. Patent 6,581,251 to Malin

U.S. Patent 6,732,981 to Franks et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Anita M. King
Primary Examiner
Art Unit 3632

February 9, 2006